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T.R.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/163,041 09/29/98 VEDITZ

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EXAMINER

TM02/1101

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WILLETT, S

ART UNIT

PAPER NUMBER

2152

DATE MAILED:

11/01/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

HG

# Advisory Action

Application No.  
09/163,041

Applicant(s)

Veditz

Examiner

Stephan Willett

Art Unit

2152



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED Oct 18, 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

## THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search. (See NOTE below);
- (b) ☐ they raise the issue of new matter. (See NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The change of an element in the claim to browser would require further search and consideration.

4. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_
5. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in separate, timely filed amendment cancelling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):  
Claim(s) allowed: None  
Claim(s) objected to: None  
Claim(s) rejected: 1-32
9. ☐ The proposed drawing correction filed on \_\_\_\_\_ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 11
11. ☐ Other:

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**DETAILED ACTION**

***Response to Amendment***

1. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.
2. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.
3. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references or the arguments presented in the Examiner's response regarding agent, cookie, etc..
4. Applicant suggests "according to the Examiner, Kito et al. teaches 'said data sources are processed in a network to achieve their expected functionality'" in Paper No. 12, Page 3, lines 20-21 and "its initial content source controls 'said network client environment'" Paper No. 12, Page 6, lines 11-12. The above argument is not commensurate with what is presently claimed since network was removed from Claim 1 and therefore will not be considered at this time. Thus, Applicant's arguments can not be held as persuasive regarding patentability.
5. Applicant suggested repeatedly that the "self contained software package" Paper No. 9, Page 4, lines 4 distinguish the present application and "the Examiner failed to specifically address the remarks submitted by the applicant", Paper No. 12, Page 4, lines 3-4. The breath of the language that is introduced in the preamble with no further limitations reads on agent, cookie, etc. Simply due to the fact the reference is in a distributed system, when the claims happen to be in the

Internet or browser environment, does not make the references inapplicable based on the breadth of the language used in the application's claims. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

6. Applicant suggested "since all content necessary to drive a particular functionality is CONTAINED within the self-contained package, the same may be executed totally and completely within a browser" in Paper No. 9, Page 4, lines 15-18. The above argument is not commensurate with what is presently claimed and therefore will not be considered at this time. The above limitations are not part of the present claims, self contained content would not make the claims non-obvious in any event and subsequently the suggestion that the claims enable "software downloads, software distribution, etc" contradict the self contained argument. The applicant asserts similar arguments in Paper No. 12 and simply due to the fact the claim's preamble states "self-contained software" does not mean "all content necessary to drive a particular functionality is CONTAINED within the self-contained package" as argued. Based on the foregoing, the Examiner has attempted to address all of the applicant's remarks. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

7. The Examiner's quote from a reference that left out one word but cited accurately the location of the quote is acknowledged and will be corrected.

8. Applicant suggests the "self contained software package includes all information necessary to deliver a particular functionality even if that functionality is achieved via accessing a downstream data source ob obtain processing instructions, etc.", Paper No. 12, Page 7, lines 12-14. The foregoing does not seem to be "self contained software" when its functionality is dependent on accessing downstream data sources. However, more importantly to aid in

prosecution, cookies, agents, etc. may be self contained or dependent on other data to perform their functionality. The many agents described in the references are not all dependent on outside data. Lastly, "self-contained software package" is very broad and without more structure is open to many interpretations in this environment unless read literally and based on the arguments presented such a literal interpretation would not be proper. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

sfw

October 25, 2001

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

**MARK H. RINEHART  
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